

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 201901000	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/02/2019 10:29 PM	Location of Incident: [REDACTED]	Precinct: 43	18 Mo. SOL 8/2/2020	EO SOL 3/19/2021	
Date/Time CV Reported Sun, 02/03/2019 2:18 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 02/03/2019 2:18 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Tomor Berisha	10417	953678	043 PCT
2. POM Bory Echanique	17967	958540	043 PCT
3. POM John Echevarria	30837	953836	043 PCT
4. SGT Anthony Donato	00105	948904	043 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Anthony Donato	Abuse: Sergeant Anthony Donato stopped the vehicle in which § 87(2)(b) and an individual were occupants.	[REDACTED]
B.POM Tomor Berisha	Abuse: Police Officer Tomor Berisha stopped the vehicle in which § 87(2)(b) and an individual were occupants.	[REDACTED]
C.POM Bory Echanique	Abuse: Police Officer Bory Echanique stopped the vehicle in which § 87(2)(b) and an individual were occupants.	[REDACTED]
D.POM John Echevarria	Abuse: Police Officer John Echevarria stopped the vehicle in which § 87(2)(b) and an individual were occupants.	[REDACTED]
E.SGT Anthony Donato	Abuse: Sergeant Anthony Donato frisked § 87(2)(b)	[REDACTED]
F.SGT Anthony Donato	Abuse: Sergeant Anthony Donato searched § 87(2)(b)	[REDACTED]
G.SGT Anthony Donato	Abuse: Sergeant Anthony Donato searched the vehicle in which § 87(2)(b) and an individual were occupants.	[REDACTED]
H.SGT Anthony Donato	Discourtesy: Sergeant Anthony Donato spoke discourteously to § 87(2)(b)	[REDACTED]
I.SGT Anthony Donato	Abuse: Sergeant Anthony Donato refused to provide his name to § 87(2)(b)	[REDACTED]
J.SGT Anthony Donato	Abuse: Sergeant Anthony Donato refused to provide his shield number to § 87(2)(b)	[REDACTED]
K.SGT Anthony Donato	Abuse: Sergeant Anthony Donato failed to provide § 87(2)(b) with a business card.	[REDACTED]
L.SGT Anthony Donato	Abuse: Sergeant Anthony Donato failed to provided an individual with a business card.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

On February 3, 2019, § 87(2)(b) filed this complaint with the CCRB by phone. On February 3, 2019, § 87(2)(b) also filed this complaint with IAB by phone and it was received at the CCRB on February 12, 2019, as a duplicate, under IAB log #2019-5157. This complaint was originally assigned to Investigator Filip Woroniecki on February 4, 2019. The complaint was reassigned to Investigator Kelly Lyon on July 25, 2019.

On February 2, 2019, at approximately 10:29 p.m., in the vicinity of § 87(2)(b) in the Bronx, § 87(2)(b) was traveling in the backseat of an Uber vehicle driven by § 87(2)(b) only known as “§ 87(2)(b) Sergeant Anthony Donato, PO Tomor Berisha, PO Bory Echanique, and PO John Echevarria, of the 43<sup>rd</sup> Precinct pulled over the vehicle (**Allegations A, B, C, and D: Abuse of Authority- Vehicle stop,** § 87(2)(g)). Sgt. Donato allegedly approached § 87(2)(b) asked for his ID, and asked him to step out of the vehicle. Sgt. Donato then allegedly patted down § 87(2)(b) s waist and reached his hand into § 87(2)(b) s pocket (**Allegation E: Abuse of Authority – Frisk,** § 87(2)(g) and **Allegation F: Abuse of Authority – Search (of person),** § 87(2)(g)). Then Sgt. Donato allegedly entered the backseat of the Uber vehicle and searched the area where § 87(2)(b) had been seated (**Allegation G: Abuse of Authority – Vehicle search,** § 87(2)(g)). Sgt. Donato allegedly told § 87(2)(b) “Don’t tell me how to do my fucking job (**Allegation H: Discourtesy – Word,** § 87(2)(g)). § 87(2)(b) asked Sgt. Donato for his name and shield number and Sgt. Donato allegedly did not provide either (**Allegation I: Abuse of Authority – Refusal to provide name,** § 87(2)(g) and **Allegation J: Abuse of Authority – Refusal to provide shield number,** § 87(2)(g)). Sgt. Donato also allegedly did not provide any business cards (**Allegation K and L: Abuse of Authority – Failure to provide RTKA card,** § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

There was no known video of this incident and this incident resulted in no summonses or arrests.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Anthony Donato stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (B) Abuse of Authority: Police Officer Tomor Berisha stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (C) Abuse of Authority: Police Officer Bory Echanique stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (D) Abuse of Authority: Police Officer John Echevarria stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (E) Abuse of Authority: Sergeant Anthony Donato frisked § 87(2)(b)**

**Allegation (F) Abuse of Authority: Sergeant Anthony Donato searched § 87(2)(b)**

**Allegation (G) Abuse of Authority: Sergeant Anthony Donato searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (H) Discourtesy: Sergeant Anthony Donato spoke discourteously to § 87(2)(b)**

**Allegation (I) Abuse of Authority: Sergeant Anthony Donato refused to provide his name to § 87(2)(b)**

**Allegation (J) Abuse of Authority: Sergeant Anthony Donato refused to provide his shield number to § 87(2)(b)**

**Allegation (K) Abuse of Authority: Sergeant Anthony Donato failed to provide § 87(2)(b) with a business card.**

**Allegation (L) Abuse of Authority: Sergeant Anthony Donato failed to provide § 87(2)(b) with a business card.**

It was undisputed that § 87(2)(b) was riding as a passenger in the back seat of an Uber when Sgt. Donato, PO Berisha, PO Echanique and PO Echevarria pulled the vehicle over, however, the reason for pulling the vehicle over and the subsequent interactions were disputed.

§ 87(2)(b) consistently stated (**BR 01, BR 02, BR 03, and BR 04**) that he was pulled over and Sgt. Donato approached him and asked for his ID. Sgt. Donato reached through the window and took § 87(2)(b)'s ID out of his hand, and handed it to another officer to run his name. Sgt. Donato then asked § 87(2)(b) to step out of the vehicle, patted down and entered his pockets. Sgt. Donato informed § 87(2)(b) that he suspected him of hiding a gun because he was moving around in the backseat. Sgt. Donato then searched the backseat of the vehicle. Sgt. Donato taunted him by saying, "fuck you," and "don't tell me how to do my fucking job." Neither § 87(2)(b) nor § 87(2)(b) received a summons. § 87(2)(b) originally stated that he asked every officer for their shield numbers, however, during his phone and verified statements, § 87(2)(b) clarified and stated he only asked Sgt. Donato for his name and shield number. § 87(2)(b) did not receive a business card.

The investigation was unable to obtain a statement from the Uber driver, § 87(2)(b) because he was unavailable.

Sgt. Donato stated (**BR 05**) that he did not independently remember this incident. Sgt. Donato stated with certainty that he did not order § 87(2)(b) out of the vehicle, pat him down, or place his hands in § 87(2)(b)'s pockets because he would have prepared a stop report himself rather than ordering another officer on scene to prepare one, as indicated by his memo book. Sgt. Donato explained that a stop report did not necessarily mean a person was frisked. Sgt. Donato also stated with certainty that he did not use any profanity or refuse to provide his name and shield number and added that if he or another officer on scene committed a FADO he would have reported it himself. Sgt. Donato did not know whether he had business cards at the time of this incident and did not specifically remember whether he provided any business cards.

Sgt. Donato's memo book entry (**BR 06**), was consistent with § 87(2)(b)'s statement regarding what Sgt. Donato said to him during the stop. The memo book entry mentioned a passenger moving as if shoving an item. Sgt. Donato did not recall whether he observed § 87(2)(b) performing this action himself or if another officer told him that he had observed the movement.

Sgt. Donato stated that this could be indicative of hiding a firearm and that he noted it in his memo book because it was the reason a stop report was ordered.

There were negative results for stop reports for this incident.

PO Berisha (**BR 07**) did not recall this incident and did not have any memo book entries about this incident. According to the warrant audit (**BR 08**), PO Berisha ran § 87(2)(b)'s name, which was consistent with § 87(2)(b)'s statement about an officer taking his ID and running his name for warrants.

PO Echanique's (**BR 09**) and PO Echevarria's (**BR 10**) statements were consistent. They both described pulling the vehicle over for a traffic violation but neither remembered what the traffic violation was. PO Echanique and Sgt. Donato approached the passenger's side of the vehicle PO Echevarria and PO Berisha approached the driver's side of the vehicle. PO Echanique described Sgt. Donato speaking to § 87(2)(b) about an ID but he did not recall the context of the conversation and did not think § 87(2)(b) provided his ID. PO Echevarria could not hear Sgt. Donato's conversation with § 87(2)(b). Neither PO Echanique nor PO Echevarria recalled § 87(2)(b) exiting the vehicle and neither officer observed Sgt. Donato pat down and search § 87(2)(b) or enter the Uber vehicle. Neither officer heard § 87(2)(b) ask for a name and shield number and they did not hear Sgt. Donato or any officer using profanities.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 16**).
- Sgt. Donato has been a member of service for 9 years and a subject in 22 additional CCRB complaints and 54 allegations, of which five were substantiated.
  - 201108564 involved substantiated allegations of refusal to provide name and shield number, a retaliatory summons, and a stop against Sgt. Donato. The Board recommended Charges and the NYPD imposed Command Discipline B.
  - 201807668 involved substantiated allegations of a discourteous word and offensive language based on race against Sgt. Donato. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.
  - § 87(2)(g)
- PO Berisha has been a member of service for 7 years and a subject in three additional CCRB complaints and four allegations, one of which has been substantiated.
  - 201800538 involved a substantiated allegation of a frisk against PO Berisha. The Board recommended Charges and the NYPD has not yet imposed discipline.
  - § 87(2)(g)
- PO Echanique has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Echevarria has been a member of service for 7 years and a subject in two additional CCRB complaints and four allegations, one of which was substantiated.
  - 201800538 involved a substantiated allegation of a search of person against PO Echevarria. The Board recommended Charges and the NYPD has not yet imposed discipline.
  - § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.

- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 17**).
- On January 21, 2020, a notice of claim inquiry was sent to the New York City Office of the Comptroller, the results of which will be added to the case file upon receipt (**BR 18**).

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Squad No.: 10

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date